



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,399	11/10/2003	Satoshi Mizutani	20050/0200487-US0	4417

7278 7590 06/03/2005

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
----------	--------------

3761

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,399

Applicant(s)

MIZUTANI ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 4-7 and 11-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 40804;61004;22505
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Species 1 in the reply filed on March 7, 2005 is acknowledged. The traversal is on the ground(s) that the open transitional phrase "comprising" has been constructed to read on many of the species cited in the office action. This is not found persuasive because the transitional phrase "comprising" is used to define the scope of the claim with respect to what unrecited additional components or steps, if any, are excluded from the scope of the claim, not to define or disclose the relationship between independent inventions. The requirement is still deemed proper and is therefore made FINAL.

Claims 4 – 7 and 11 – 21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 7, 2005.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 3 and 8 – 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Raidel et al. (WO 98/43684).

With respect to claim 1, Raidel et al. (hereinafter "Raidel") discloses an interlabial pad comprising an absorbing sheet portion (18) facing a body side when the pad is worn, the absorbing sheet portion including an absorbent body (36) that absorbs body fluid, and a support sheet (20) backing the absorbing sheet portion; wherein the absorbing sheet portion is formed as an aggregate (44) juxtaposing a plurality of strip-type absorbing areas (28) in a belt shape which include independent absorbent bodies; and wherein the strip-type absorbing areas disposed on a central portion of the absorbing sheet portion form a body fluid discharge port contact area that contacts a vicinity of a body fluid discharge port of the user; and wherein the strip-type absorbing areas disposed on both outwardly-folded sides of the absorbing sheet portion form a labia inner wall contact area that contacts an inner wall of the user's labia as set forth in figure 2.

With reference to claim 2, Raidel discloses an interlabial pad wherein a side end of the labia inner wall contact area comprises an arc-shaped portion; and wherein both edge ends of the arch-shaped portion converge toward edge ends in a longitudinal direction of the body fluid discharge port contact area as set forth in figure 2.

As to claim 3, Raidel discloses an interlabial pad wherein the body fluid discharge port contact area and/or the labia inner wall contact area is divided into a plurality of portions as set forth in figure 2.

Regarding claims 8 – 10, see the abstract and figures 2 – 5.

Art Unit: 3761

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday - Friday, 5:30am - 2:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on 571-272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michele Kidwell
Examiner
Art Unit 3761